
Costs Decision

Site visit made on 23 March 2021

by S Hunt BA (Hons) MA MRTPI

Inspector appointed by the Secretary of State

Decision date: 12 May 2021

Costs application in relation to Appeal Ref: APP/W3005/W/20/3252949 211 Alfreton Road, Sutton in Ashfield NG17 1JP

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Ashfield Ltd for a full award of costs against Ashfield District Council.
 - The appeal was against the refusal of outline permission for a maximum of 100 dwellings and associated access including demolition of 211 Alfreton Road.
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Decision

1. The application for an award of costs is refused.

Reasons

2. Planning Practice Guidance advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process. Local planning authorities will be at risk of an award being made against them if they fail to produce evidence to substantiate each reason for refusal.
3. The Council's Officer recommended that planning permission be granted for the proposed development. The Committee Members' took a different view and refused the application as representing an unsustainable form of development for four reasons. The Council Members in this case were entitled not to accept the professional advice of Officers so long as a case could be made for the contrary view.
4. The reasons for refusing the proposed development have been adequately substantiated in the Council's statement of case. The reasons are precise, specific and relevant to the application, and clearly state the conflict with the relevant policies of the Ashfield Local Plan Review (ALPR) as well as the National Planning Policy Framework (the Framework).
5. Whilst I have found that ALPR Policy RC2 is out-of-date by virtue of the Council being unable to demonstrate a five year supply of deliverable housing sites, the loss of part of the open area (RC2 Sa) allocated under this policy continues to be of relevance in the planning balance. Coupled with the Council's concerns regarding harm to character and appearance, which is a matter of judgement, this has been adequately substantiated.
6. I do not consider it necessary for there to be direct evidence in the decision notice or the minutes of the planning committee meeting that a planning

balance exercise was carried out by Members. The officer report includes such a balance at section 11, and there is no evidence that this was ignored. Members simply gave greater weight to the issues which are set out in the reason for refusal, which would have been based on their consideration of the officer report, consultation responses and comments made by local residents, as well as their local knowledge. The Council's statement of case sets out a planning balance at sections 4.48-4.50.

7. I do not consider that the evidence presented by the Council is vague and generalised, or unduly reliant on the views of local residents. Rather the decision was a matter of Members' judgement which differed to that of the Officer's.
8. Whilst there is limited evidence from the Council to substantiate their case in relation to an adverse impact on biodiversity, it is clear to me that this stems from the loss of trees, some of which had already been felled. This in turn raised concerns that the biodiversity value of a site would be harmed.
9. The reason relating to lack of education provision relates to the lack of an agreed offer of an education contribution in a legal agreement. This and other necessary planning obligations have since been set out in a Unilateral Undertaking (UU) submitted by the applicant.
10. It will be seen from my decision that I have agreed with the applicants' case on the proposed development. Nonetheless I also find that the Council has adequately substantiated the reasons for refusal, and it has not caused unnecessary or wasted expense. Unreasonable behaviour has not been demonstrated and therefore no award of costs is made.

S Hunt

INSPECTOR